

Terrorism Medal, the Sea Service Ribbon (2 awards), the NATO Service Medal, the Expert Rifle Ribbon, and the Expert Pistol Ribbon.

Although Caleb's life was cut short, he had a wide circle of friends and touched the lives and hearts of many. His dynamic and energetic personality caused people to look to him as a motivator and as a mentor. Those who knew him recall his deep faith in Christ, his strong interest in physical fitness, and a focus on getting things done. Throughout his life, Caleb grew in his Christian faith and quickly became a rock of support for others. No problem was too small to lay before Caleb.

There was also an unrelenting love for family dwelling inside this tough, physically fit SEAL. His wife Anna and his sons, David and Kyle, meant everything to him. When Caleb wasn't training or on assignment, he was with them. Caleb also benefited from a strong relationship with his loving parents, Larry and Barb, his nine siblings, and a faithful community of fellow believers who admired his strength, his compassion, and his leadership.

Today, I ask that God be with the family and friends of Caleb Nelson and bring them comfort during this very difficult time. Their faith is strong, so I know they will join me in seeking God's blessings on those currently serving in uniform, especially those involved in combat operations.

May God bless our servicemembers and their families and bring them home safely.

The PRESIDING OFFICER. The Senator from Illinois.

SWIPE FEE REFORM

Mr. DURBIN. Mr. President, we are at a significant moment in the relationship between the banking industry on Wall Street and businesses and consumers on Main Street all across America. This could be, in the words of Malcolm Gladwell, a "tipping point," and it could lead to a much more balanced relationship in the future.

It is interesting how we reached this point. There was a time not that long ago when Wall Street and Main Street both played by the same rules. Banks and businesses sold goods and services to consumers in a competitive market environment with transparent prices. Banks performed and still perform a valuable function in our economy, providing capital and liquidity. Businesses, of course, in the sale of goods and services are generating the activity that fuels our economy. They were complementary. They worked with one another.

The successful banks and businesses were the ones that were more efficient than their competitors. They offered better products, better prices. This system, characterized by transparency, competition, and choice worked well for everyone: consumers, banks, businesses, all their customers. It was the

basis for a free market economy and a great nation.

In recent years, and particularly after the repeal of Glass-Steagall, though, things changed. Banks started moving to a new role beyond capital and liquidity. The level of profitability and the activities of the banks started moving in many different directions. Instead of practicing transparency and competition, many banks started cutting corners, imposing fees, raising interest rates, and basically creating policies that were very difficult for even their most loyal customers to follow. That was a situation which had gotten out of hand.

We saw hidden fees pop up left and right, such as overdraft fees on checking accounts that went completely beyond any reasonable penalty for a person who is guilty of that conduct, and sudden interest rate changes on credit cards. Consumers many times did not even know they were being charged the fees until it was too late, and the banks figured if all the banks did it consumers would have no choice. They had to live with it.

Perhaps no fee better characterized the absence of transparency and competition than the interchange fee, or the swipe fee. This is a fee that banks receive from merchants and retailers each time a person uses a debit card or a credit card. It is a fee unlike any other. With most fees we see one fee rate charged by one bank, such as Bank of America, another rate by another bank, Wells Fargo or Chase or whatever it happens to be. But with interchange fees, all banks receive the same fee rate. There is no competition.

The banks realized that competition holds fee rates down. So they went to Visa and MasterCard—and on debit cards Visa has around 80 percent of the debit card business—and said to them: You can set, you can dictate the interchange fees the banks will collect. And they did.

This duopoly, these two major credit card giants, Visa and MasterCard, set fees for all of the banks issuing their cards across America. This has been a huge moneymaker for the banks. Banks make an estimated \$50 billion a year in debit and credit card interchange fees, and because there is no competition and no negotiation with the retailers Visa and MasterCard reward their big bank allies with higher fee rates every single year, even as the cost of processing these transactions continues to go down.

Swipe fees have become a huge and growing burden for Main Street businesses and customers, and American families ultimately pay the price in the form of higher costs for groceries and gasoline.

I think of Potash Supermarket. I have talked about it on the Senate floor many times. Art Potash has become a buddy of mine, second or third generation owning this supermarket near North Chicago. He is not as big as the big boys, Dominicks, Jewel, and

the others, but, boy, what a nice store he has.

Art came to me years ago and said: They are killing me. The debit card sweep fees are killing me. It is the second or third most expensive item when I put together the cost of my business, and it is out of control. I have no control over it.

Art was one of the people, he and Rich Neimann down at Quincy, IL, retailers, businessmen who got me started on this. Well, it is interesting. Something is happening out there in America. It could be that the era of some of these banking practices is coming to an end. Maybe we are reaching a tipping point.

In 2009, Congress passed credit card reform that reined in sudden interest rate changes, and regulators placed curbs on abusive overdraft fees. Of course, the credit card companies and the banks screamed bloody murder: Too much government. Too much regulation.

We did not listen to them. We listened to American families and consumers. Last year, Congress passed a Wall Street reform bill, and we created a new Consumer Financial Protection Bureau and placed reasonable limits on Visa and MasterCard swipe fee price fixing. No surprise. The banks cried bloody murder. They do not want to make a penny less than they made in the last quarter, even if their past profits were inflated by hidden fees and anticompetitive practices.

So now big banks are looking for new ways to squeeze their customers in order to maintain their record profits and ten-figure executive bonuses. But in the past week, something interesting has happened in America. After years of raising fees on the customers without much resistance, several of the biggest banks tried to stick it to their customers again with a new monthly debit card fee. The consumers of America noticed, stood up, and said: No way.

After Bank of America, Wells Fargo, and several other big banks announced these new debit fees, their customers began voting with their feet. New account openings at credit unions and community banks surged in many cases by 20 to 50 percent.

I am sure that is good news to my colleague from Iowa to know that there is more business at the community banks and credit unions of Iowa, leaving the Wall Street banks and coming home to Iowa. It is good news in Illinois.

Consumers have been emboldened. They are now saying they will only do business with banks that care about serving them instead of squeezing them. This has been a great development for consumers. It has also been great for those small banks and credit unions which we value so much in the Midwest who have never stopped playing by the rules and have always valued their customers and their communities.

Now, November 5 is coming. It turns out to be a day I was not previously

aware of but I have read about now. They are calling it the National Bank Transfer Day. We are seeing many big banks actually reversing themselves and abandoning their recently announced debit fees in light of the possibility that even more people are going to shift away from the big banks with the monthly debit card fees to community banks and credit unions and other banks that are not imposing the fees.

Big banks are starting to see it just is not good business to nickel and dime their customers and charge them five bucks a month for access to their own checking account. That is what they were doing. At least that is what they were proposing.

Can you imagine the big banks ever changing course like this a few years ago? Not a chance. But through reasonable regulation and consumers standing up and being alert, we are restoring transparency and competition to financial services.

Transparency and competition are part of a good, functioning, free market economy. It is not over by a long shot. The big banks still have enormous power and resources. They are going to continue to try to find ways to make money at the expense of their customers, and that is why we need to do several things.

First, we need to confirm once and for all a Director for the Consumer Financial Protection Bureau. I know Wall Street banks and financial institutions and many on the other side of the aisle hate this new Bureau, as Dale Bumpers used to say, like the Devil hates holy water. But the fact is, this is an agency solely dedicated to ensuring that consumers have good information so they can make good choices. Senate Republicans should lift their hold on Richard Cordray so he can be confirmed to run this important agency. They should stop doing the bidding of the financial institutions who are afraid of oversight and stand on the side of families and small businesses across America.

Second, we need to ensure transparency of all bank fees so consumers cannot be tricked and trapped. This is the role the CFPB will eventually play. But there is no need for banks to wait to provide this transparency. For example, the Pew Charitable Trusts has developed an easy-to-read, one-page model disclosure for banks to list all of the fees they can charge on checking accounts. Banks should immediately adopt this Pew Trust disclosure box so their Web sites are clear to consumers and consumers can actually comparison shop and choose the bank that best serves their needs. This type of standardized fee transparency will help drive consumer business to the good banks, those that play by the rules and offer a good value at a reasonable price.

Third, we have more work to do to bring transparency and competition to the swipe fee system. For example, credit card swipe fees are still entirely unregulated, and they can cost a mer-

chant up to 3 to 4 percent of the transaction amount. Every American should be aware of what it costs a merchant to accept a credit card because ultimately the consumers pay for it.

Consumers should particularly be aware of how much their local small businesses pay in credit card interchange. They should also know how much more rewards cards cost merchants than nonrewards cards. This will help consumers make more informed choices.

If we are for competition and for transparency and for choice, we have to move to a level where consumers have more information. So I call on the Nation's biggest 1 percent of banks, those with over \$10 billion in assets, to disclose in their monthly statements of their cardholders the interchange fees the banks received on each credit card transaction.

While it would be ideal for this interchange disclosure to be made known to customers directly at the cash register or on receipts, I recognize that might be difficult. So let's do it on the monthly statement. Big banks can easily modify these monthly statements to show how much the bank received in interchange fees on each transaction. This can happen almost immediately.

This type of transparency is particularly important because we are seeing big banks trying to steer their customers away from paying with debit and toward credit. Have you noticed the ads that are offering rebates on credit cards now; 1 percent, 2 percent, even 3 percent on gasoline? What customers may not realize is that the fee being charged by the credit card company and the bank to the gas station may be far in excess of 3 percent. So they have already taken the money away from consumers as they pay for their gas, and then they toss three pennies back to them.

It is time for a little more disclosure about the actual relationship between those banks, credit card companies, and the consumers and retailers that deal with them.

In closing, I do believe we are at a tipping point when it comes to the balance between Wall Street and Main Street. For too long Main Street businesses and consumers have been playing by the rules, and Wall Street has been rigging the game. Now transparency and competition are being restored to the banking industry.

A member of my staff was down in Georgia over the weekend. He drove by and saw a little bank called Bank of the Ozarks. I do not know what it was doing in Georgia, but it said Bank of the Ozarks. It had a sign outside that said: We agree. Debit cards should be free.

The word is spreading across America. It is an important word to which consumers are paying attention. We are seeing dramatic increases in the Web sites of credit unions and community banks, people transferring their money to where they think they will

get better treatment and a better deal. It is called competition. Transparency and competition are coming to the banking industry. Consumers are getting better information, and many of them are making important choices for their families and businesses.

This is going to strengthen small banks and credit unions in Iowa, in Illinois and Connecticut, and many places all around America. It will help small businesses in Iowa, too, as well as Illinois, who are being crushed by hidden swipe fees today. It is going to help the economy move forward in a fair way with real disclosure.

Let's keep this progress moving. I salute those who stood with me on a bipartisan vote on both occasions on the Senate floor to move forward on this important matter. Just a few weeks ago, major publications such as the Wall Street Journal and the Chicago Tribune were jumping all over the "Durbin fee," and they were standing by the big banks that said they were going to put this monthly fee on because of DURBIN.

Guess what. Those banks are backing off now. They realize their customers are leaving if they are not treated properly and fairly. Let's continue that. It is healthy for America and the growth of our economy.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF STEPHEN A. HIGGINSON TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Stephen A. Higginson, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate, equally divided and controlled in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, today the Senate will finally vote on the nomination of Stephen Higginson of Louisiana to fill a vacancy on the Fifth Circuit